ശ്രീ. ടി. കെ. നാരായണപിള്ള: സെലക്ട് കമ്മറിയിൽനിന്നും വരുത്തിയ ഭേഗതികൾക്കുള്ള പരിഭാഷ ഒരുമണിക്ക് സിക്രട്ടറിയെ ഏൽപ്പിക്കുന്നതിന് സാധിക്കും. ആ നിലയിൽ ഇംഗ്ലീഷ് അറിഞ്ഞുകൂടാത്ത അംഗങ്ങളുടെ ഇടയിൽ നാലുമണിക്കുമുമ്പുതന്നെ വിതരണം ചെയ്യുന്നതിനും സാധിക്കും.

മിസ്റ്റർ. സ്പീക്കർ: പരിഭാഷ തയാറാക്കുന്നതിനു കഴിയുന്നത്ര ശ്രമം ചെയ്യിട്ടുണ്ട്. ഇന്നു നാലുമണിക്കുമുമ്പുതന്നെ മെമ്പറന്മാർക്ക് വിതരണംചെയ്യും. സഭ അതിനുമുമ്പ് പിരിയുന്നപക്ഷം ബഹുമാനപ്പെട്ട മെമ്പറന്മാരുടെ വസതികളിൽ അതെത്തിക്കുന്നതാണ്.

The Travancore-Cochin Agricultural Income-Tax Bill

Sri. A. J. John: I beg to present the report of the Select Committee on the Travancore-Cochin Agricultural Income-tax Bill and move that the Bill as revised by the Select Committee may be taken up for consideration in due course.

Sri. T. K. Narayana Pillai: I second it.

The motion was adopted.

The Cochin Temple Entry Authorisation Proclamation (Amendment) Bill

Sri. T. K. Narayana Pillai: I move that the Cochin Temple Entry Authorisation Proclamation (Amendment) Bill as revised by the Select Committee be taken up for consideration.

സെലക്ട് കമ്മിറ്റി ഇതിൽ യാതൊരു വ്യത്യാസവും വരുത്തിയിട്ടില്ല. ഇതു സംബന്ധിച്ചു ഒരു ഭേഗതിയും കാണുന്നതിനു ഇടയായിട്ടില്ല.

Minister for Education, Labour and Civil Supplies **(Sri. Panampilli Govinda Menon):** I second it.

The motion that the Bill be taken into consideration was put and carried.

ശ്രീ. ഇട്ടീര അമ്മുക്കൻ: ആഗ്രികൾച്ചറൽ ഇൻകംടാക്സ് ബില്ലിനു അമൻഡ്മെൻറ് അയക്കാനുള്ള സമയംകൂടി പറഞ്ഞാൽ കൊള്ളാം.

Mr. Speaker: That matter may be gone into after the matter that is now before the House is disposed of.

The question that clauses 1 to 5 stand part of the Cochin Temple entry Authorisation Proclamation Amendment Bill was put and carried.

Clauses 1 to 5 were added to the Bill.

The question that the preamble stand part of the Bill was put and carried.

The preamble was added to the Bill.

The question that the title stand part of the Bill was put and carried.

The title was added to the Bill.

Sri. T. K. Narayana Pillai: I move that the Bill be passed.

Sri. Panampilli Govinda Menon: I second it.

The question that the Bill be passed was put and carried.

The Bill was passed.

The Travancore-Cochin Board of Revenue Bill

Sri. A. J. John: I move that the Board of Revenue Bill, as revised by the Select Committee, be taken into consideration.

Sri. Panampilli Govinda Menon: I second it.

The question that the Bill be taken into consideration was put and carried.

The question that clauses 1 and 2 stand part of the Bill was put and carried.

Clauses 1 and 2 were added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. K.P. Nilakanta Pillai : Sir, I move: in clause 3 "Substitute the words 'more than one member', for the words 'of one or more members' in line 2.

Clause 3 now reads: thus: "There shall be constituted for the State a Board of Revenue consisting of one or more members as the Government may from time to time think fit to appoint." The clause, as amended by me, would read: "There shall be constituted for the State a Board of Revenue consisting of more than one member as the Government may from time to time think fit to appoint."

Sir, in moving this amendment, I presume there may not be any objection to this amendment. As we have pointed out during the discussion of this Bill at its first reading, a Board means, as commonly understood, a Boad consisting of more than one member. The clause, as it is, may enable the Government to appoint a single member and call him a Board. It is to avoid that that I say the Government should not be given the power to appoint only one member to the Board and call that body a Board. My amendment seeks to bind the Government to appoint more than at least one member and then call that body a Board.

We also pointed out, Sir, even though there are two members now constituting the Board, the Board as such does not function, because, among the number of departments mentioned in Schedules 2 and 3 of the Bill, there has been a division of work between the two members. It is some sort of an agreement resembling that of a division of the family property. By allocating certain departments between themselves, they have constituted themselves as administrative heads of these departments which are divided between them. So, it is a misnomer to call the existing Board as a Board, because only two members are there and they independently administer different departments and even exercise appellate jurisdiction over administrative matters which are in their charge. Therefore, there is no joint sitting by the Board. We can even realise a difference of opinion that might take place between the two members of the Board, and there is no provision how that matter can be settled. We expected that there may at least be three members of the Board which number would have been reasonable, but I am sorry to say it is not the case. I have pointed out this anomaly several times, but still there it is. What is exactly their intention in these matters, we are at a loss to understand. The object that the Revenue Board must function as a Board and matters that may be taken for consideration before the Revenue Board must be considered by more than one member of the Board is lost sight of by the Government. That is the reason why I have tabled this amendment which would compel the Government to appoint more than one member. The clause, as it stands, could enable the Government now to send away one of the members and yet call the body a Board. To avoid that contingency, I have tabled this amendment.

There is one more point before I conclude. The Government should reconsider their proposal and should add one more member to the Board and make it three. Otherwise, the Board would not work as we expect it to work, and there is absolutely no meaning in having the present Board, as it is working and as it has been working. I put a question, when this Bill was taken up for first reading, whether it had been brought to the notice of the Government that the two members constituting the Board together heard any matter. They were unable to tell me whether they sat together and heard any matter. Then, what is the purpose of constituting a Board, I am asking the question. Even with the two members now constituting the Board, member No. 1 is virtually the administrative head of the Excise and other allied departments, and Member No. 2 is the administrative head of the Revenue and allied departments. I am asking this question. As the administrative head of the Revenue Department, if any appeal arises, is he to hear the matter alone? Then, what is the purpose of providing a Board and asking the aggrieved party to take up the matter before the person who decided that matter against the interests of the party? The whole thing seems to be meaningless. Even then, there is another difficulty. Suppose, an excise matter has been decided in one way by member No. 1 and a revenue matter has been decided by member No. 2 in one way, if the two members sit together to hear the aggrieved party, the decision may not be against the previous decision of any of the two members. This is just like "Tickle me, Tommy, and I will tickle thee." Because, as administrative head of a department, one member decided one thing, and then, it will look awkward for the other member, while sitting together, to prevail upon the member who made that decision, to vacate that order. It puts both the members of the Board in a very awkward position. So, this amendment should be accepted and it must be implemented by appointing one more member to the Board and making it have a strength of three. Otherwise, there is no purpose in the creation of this Board, as I said on a previous occasion. With these words, I move the amendment.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. P. S. Nataraja Pillai: I move:

"In clause 3, omit the words "one or more members.....to appoint" and insert the following: "three members nominated by Government from time to time." As amended, the clause would read thus: "There shall be constituted for the State a Board of Revenue consisting of three members nominated by Government from time to time."

My purpose is slightly different from what Mr. K. P. Nilakanta Pillai has in view. I agree that the Board must consist of more than one member which is also agreed to by the Government. But I fix the number at 3. If the Government thinks it fit at a later time to have a Board of five members, under the wording of the present clause, they have the power of nominating five members to the Board of Revenue. We have in this country the singular phenomena of a number of people who find themselves without any post frequently, and they are often shunted off to new posts. So, Sir, when a particular officer is found by the powers that be to be superfluous, there is every chance of he being nominated to the Board and asked to continue as member of the Board and draw his salary. After all, it is for this House to consider what the number of the members of the Board which we are creating should be. If the House is satisfied that there is a necessity for a Board and if it thinks that the Board should function as a body consisting of more than one member, then for facility of work, for reasonable execution of the work entrusted to them, it would be better to nominate three members and fix the number at three. Moreover, Sir, in the present Board which is functioning today, we have two members. On the last occasion, when I pointed out that if there was a difference between the two, how they were to compromise, it was said that it might be referred to Government and that the Government's decision would be final. Then, Sir, it will be giving a loophole for the executive authority of the Government to interfere with the decisions of the Board by creating a Board consisting of two members, where the division would be equal, and thus enable the Government to sit in judgment over the decision of the Board. Therefore, to avoid that, if we fix the number as three, and if the decisions of the Board are to go by a majority, there would be no difficulty. In the interests of the public administration and for the sake of efficiency in the work entrusted to the Board, it would be better, Sir, to fix the number, and not to leave it to the whims and fancies of the Government from time to time. According to the wording used now, Government in one month, can decide that the Board should be of two members, and the next month, they can fix it at five and later on at three, and so on. So, that discretion should not be vested with Government. There is that danger which I pointed out, namely, very often, when officers are found without adequate work, and if any officers are found to be superfluous at a particular moment, they could be added on to the Board and allowed to draw the salary. So, the Legislature should not give that latitude to the Executive and they should fix the number. I propose to fix the number at three, and I request the Government to consider it, and accept my amendment.

ശ്രീ. പൊന്നറ ജി. ശ്രീധർ: സർ, ഈ സംബന്ധിച്ചു ഞാൻ ഹാജരാക്കിയിട്ടുള്ള ഭേദഗതി മി. പി. എസ്. നടരാജപിള്ള ഹാജരാക്കിയിട്ടുള്ള ഭേദഗതിയുമായി യാതൊരു വ്യത്യാസവുമില്ല. അതുകൊണ്ട് അദ്ദേഹത്തിന്റെ ഭേദഗതിയെ ഞാൻ പിൻതാങ്ങുകയാണ് ചെയ്യുന്നത്. ബോർഡ് എന്നു പറയുന്നതു സാധാരണയായി ഒന്നിൽ കൂടുതൽ അംഗങ്ങൾ ഉണ്ടെങ്കിൽ മാത്രമാണ്. എന്നാൽ ഇവിടെ ഹാജരാക്കിയിട്ടുള്ള ബില്ലിലെ വ്യവസ്ഥ അനുസരിച്ചു ഒരു മെമ്പർ മാത്രമെ ഉള്ളൂ എങ്കിലും ബോർഡാകാം, എന്നു വന്നിട്ടുണ്ട്. അതേസമയത്തു ആവശ്യമെന്നു തോന്നുന്ന അവസരങ്ങളിൽ കൂടുതൽ അംഗങ്ങളെ നിയമിക്കുന്നതിനുള്ള അധികാരവും വച്ചിട്ടുണ്ട്. ആ അധികാരം സർക്കാരിന് ആവശ്യമായിരുന്നേക്കാം. എന്നാൽ എത്രപേരാണ് ബോർഡിൽ ഉണ്ടായിരിക്കേണ്ടതു എന്നു കൃത്യമായി ഒരു വ്യവസ്ഥ ഈ ബില്ലിൽ ഉണ്ടായിരിക്കേണ്ടതു ആവശ്യമാണ്. സർക്കാരിന്റെ മുൻനടപടികൾ വീക്ഷിച്ചുകൊണ്ടിരിക്കുന്ന എനിക്ക് ഈ വിധത്തിലുള്ള അധികാരം സർക്കാരിന് നൽകുന്നതിനു ഭയമുള്ളതുകൊണ്ടാണ് ഞാൻ ഈ ഭേദഗതി കൊണ്ടുവന്നിരിക്കുന്നതു. ബോർഡിൽ മൂന്നു മെമ്പറന്മാർ ഉണ്ടായിരിക്കണം എന്നുവച്ചിരിക്കുന്നതിന്റെ ഉദ്ദേശം തന്നെ ഇതു മാത്രമാണ്. മൂന്നിൽ കൂടുതൽ അംഗങ്ങൾ ഇരിക്കുകയാണെങ്കിൽ അവരുടെ ഭൂരിപക്ഷമനുസരിച്ചു എതു കാര്യങ്ങളും തീരുമാനിക്കാൻ സാധിക്കും. നാലു പേരോ രണ്ടുപേരോ ആറുപേരോ ഉള്ള ഒരു ബോർഡാണെങ്കിൽ ഒരു അവസാന തീരുമാനത്തിനുവേണ്ടി സർക്കാരിന് കൈകടത്താൻ സാധിക്കും. അതുകൊണ്ടുതന്നെയാണ് ഈ മൂന്നുപേർ തന്നെവേണം എന്നുള്ള ഭേദഗതി ഇവിടെ ഹാജരാക്കിയിരിക്കുന്നതു.

LIBRARY ARCHIVES Kerala Legislative Assembly

ശ്രീ. എ. ജെ. ജാൺ: സർ, ഈ ഭേദഗതികളെ ഞാൻ എതിർക്കുന്നു. മി. കെ. പി. നീലകണ്ഠപ്പിള്ള പറയുകയുണ്ടായി ബോർഡ് എന്നു പറഞ്ഞാൽ ഒന്നിൽ കൂടുതൽ അംഗങ്ങളും ഉണ്ടായിരിക്കണം എന്നു്. അതു ശരിയല്ല. അതിനു് സെൻട്രൽ റവന്യു ബോർഡിന്റെ ഘടനയെസംബന്ധിച്ചുള്ള ഒരു ഭാഗം ഞാൻ വായിക്കാം.

"As soon as may be after the commencement of this Act, the Central Government shall constitute a Central Board of Revenue consisting of one or more persons appointed by it which shall be subject to....."etc. ഒന്നോ അതിലധികമോ ആളുകൾ ഉണ്ടെങ്കിൽ ഒരു ബോർഡ് ആകാം എന്നാണു് പ്രസ്താവിച്ചിരിക്കുന്നതു്. അതുതന്നെയാണു് മറ്റു സ്ഥലങ്ങളിലും നടപ്പിലിരിക്കുന്നതു്. അതുകൊണ്ടു് റവന്യു ബോർഡിൽ ഒന്നോ അതിലധികമോ ആളുകൾ ആകാം. ഒന്നിൽ കൂടുതൽ ആളുകൾ വേണമെന്നുള്ളതു് നിർബ്ബന്ധമുള്ള കാര്യമല്ല. ഒരാളായാലും ബോർഡാകാം.

പിന്നിട് മി. കെ. പി. നീലകണ്ഠപ്പിള്ള പറയുകയുണ്ടായി ഇന്നു് ഇവിടെ കാൺസ്റ്റിറ്റ്യൂട്ട് ചെയ്തിരിക്കുന്ന ബോർഡിലെ ഒരു മെമ്പർ എക്സൈസും അതിനോടനുബന്ധിച്ചു ഡിപ്പാർട്ട്മെൻറുകളുടേയും രണ്ടാമത്തെ മെമ്പർ ലാൻഡ് റവന്യു സംബന്ധമായ കാര്യങ്ങളുടേയും ചുമതല വഹിക്കുന്നു എന്നു്. അവർ ഓരോരുത്തരും ചെയ്യുന്ന തീരുമാനങ്ങൾ വീണ്ടും അവർ യോജിച്ചു തീരുമാനിക്കേണ്ടതായിവന്നാൽ അവർ അങ്ങോട്ടും ഇങ്ങോട്ടും ചില കാര്യങ്ങൾ വകവച്ചുകൊടുക്കേണ്ടതായിവരും എന്നൊരു പ്രസ്താവനയും ചെയ്യുണ്ടായി. ഈ ബോർഡിൽ ആളുകൾ കൂടുകയാണെങ്കിൽ ഈ കഴപ്പുങ്ങൾ കുറെക്കൂടി ഉണ്ടായേക്കാം എന്നാണ് എനിക്ക് പറയാനുള്ളതു്.

എന്തെങ്കിലും സന്ദർഭത്തിൽ ഈ ബോർഡിനു് ധാരാളം ജോലിയില്ലെന്നു കാണുകയാണെങ്കിൽ മെമ്പന്മാരെ കുറയ്ക്കുന്നതിനും അതല്ലാ ജോലി കൂടുതലുണ്ടെന്നു കാണുകയാണെങ്കിൽ അതു് കൂട്ടുന്നതിനും ഗവണ്മെണ്ടിനു് അധികാരമുണ്ടായിരിക്കണമെന്നാണു് ഈ വകുപ്പിൽ പ്രസ്താവിച്ചിരിക്കുന്നതു്. എന്നാൽ മി. പി. എസ്. നടരാജപിള്ള പറയുകയുണ്ടായി ജോലി ഇല്ലാത്തവർക്കു ജോലി കൊടുക്കുന്നതിനായി ഇതിൽ മെമ്പറന്മാരെ കൂട്ടുന്നതിനു് സാധിക്കുമെന്നു്. അതിനു് എനിക്കു സമാധാനമായി പറയാനുള്ളതു് ഈ ബഡ്ഡറ്റു് നോക്കിയാൽ രണ്ടുപേക്കുള്ള പ്രൊവിഷൻ മാത്രമെ ഇതിൽ കൊള്ളിച്ചിട്ടുള്ളു എന്നു കാണാം. ഇനിയും കൂടുതൽ ആളുകളെ നിയമിക്കണമെന്നുണ്ടെങ്കിൽ അതിലേക്കു വേണ്ടിയുള്ള തുക ക്കായി സപ്ലിമെൻറ്ററി ഡിമാൻറു് ഈ സഭ മുമ്പാകെ കൊണ്ടുവരേണ്ടിയിരിക്കുന്നു. അപ്പോൾ അവരുടെ അഭിപ്രായം രേഖപ്പെടുത്തുന്നതിനു് അവസരം കിട്ടുമായിരിക്കും. ഈ കാരണങ്ങളാൽ ഈ ഭേദഗതികളും രണ്ടിനേയും ഞാൻ എതിർക്കുന്നു.

The amendments were put and lost.

The question that Clause 3 stands part of the Bill was put and carried.

Clause 3 was added to the Bill.

Sri. P. S. Nataraja Pillai: Sir, I move the following amendments:

In clause 4, sub-clause (1), omit the word 'appoint' in line 4, and insert the word 'nominate'.

In clause 4, sub-clause (2), omit the word 'appointment' and insert the word 'nomination'.

The Clause as amended will read as follows:

"4 (1) When any member is by reason of absence or otherwise, unable to perform the duties of the office, the Government may by notification, nominate any person to be, for the time being a member of the Board.

(2) A person shall not be qualified for nomination as a member of the Board unless he has an aggregate service of three years as the Head of one of the major Departments with which the Board is concerned or as Secretary to Government, Secretary to the Board of Revenue or as Collector or in all these capacities."

Sir, I move these amendments on the basic principle that a Board as envisaged in this Bill must be a structure which this Government will constitute from time to time to function as an appellate authority. The Board as envisaged in this Bill is, on the other hand, an executive and appellate authority consisting of permanent civil servants with high salaries. The qualification for such appointment is that he should be the head of a major department or a Secretary

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri. P. S. Nataraja Pillai]

to Government, which means that he will be a civil servant of the highest rank and seniority. He will naturally be a first-class officer of the State, and the Board is to be the highest executive and appellate authority. I think that is an unwanted and costly body for this State. I fundamentally disagree with the proposition that the Board should be an executive as well as an appellate authority at the same time. I had occasion to point the difficulties that will arise if a body is authorised to be in control both as an executive and an appellate authority. In the present political conditions of the country, it may be necessary that the final appellate powers should be vested in a permanent body of civil servants and should be taken away from the political chiefs who occupy the Treasury Benches. I hold that view. To vest that appellate authority in a Board may be reasonable, but at the same time to give the members of the Board executive authority is unreasonable. It will create inefficiency and difficulties in the normal administration of the department. Therefore, I propose by this amendment that the Government should not appoint members permanently to the Board but should nominate members to the Board from time to time and the nomination should be restricted to permanent civil servants. Whenever there is necessity to hear appeals under the Acts mentioned in the Schedule, such as, the Revenue Recovery Act, Salt Act, Sea Customs Act or the Land Conservancy Act, an appellate authority may be created like the Income-tax Tribunal and that body may hear appeals, and Government may nominate persons to that body. Therefore, I have moved that the word "appoint" may be substituted by the word "nominate", and the qualifications may be high and persons who have sufficient experience of the country and occupy high ranks in the official cadre may be nominated.

Apart from that, we read in the papers about a Re-organisation Committee or some such Committee which is sitting on the integration of the services of the two States. That Committee has recommended that the Excise Department must have a separate Head for that Department. Whether that is a fact or not, I am not in a position to say. I think that for the efficient conduct of work of the Excise Department there should be a separate Head for the Department. Similarly, for the Sales-tax a separate head is necessary if the anticipated revenue is to be collected. So, it will be too costly to place high officers on high salaries for this Board. Therefore to avoid duplication of appointment and to reduce the cost of administration, it will be better for the Government to reserve the right to nominate members of the Board from time to time and give them allowance.

Sir, in this connection, I would like to point out that there is a provision in the rules that whenever a Bill is introduced a Memorandum on the financial position should be placed before the House. I raised that point on an earlier occasion but somehow the Treasury Benches did not think it necessary to place it before us. Therefore this cannot realise the financial implications of this Bill. I take objection to the clause because it provides for high officers as permanent members of the Board and that would increase the cost of administration of the country. At the same time to saddle them with the responsibility of administration of the departments will lower efficiency and create confusion. Therefore, I move these amendments.

Sri. Ponnara G. Sreedhar: Sir, I do not move the amendment standing against my name as it is similar to Mr. Nataraja Pillai's. I support his amendment.

Sri. A. Thanu Pillai: I move the following amendment:

In Clause 4, sub-clause (2), omit the word 'major'.

Nobody knows what those major departments are. Very many departments have been scheduled in the Bill—Land Revenue, Excise, Customs, Prohibition, Income-tax Court of Wards, Sales-tax, Mines and Minerals, Famine Relief, Co-operation, Panchayats, Fisheries, Registration. There is absolutely no mention as to what are the major and minor departments. A word that is not defined anywhere should not find a place in the Statute. I move that it may be deleted.

ശ്രീ. എ. ജെ. ജോൺ: സർ, ഞാൻ ഈ ഭേദഗതികളെ എതിർക്കുന്നു. ശ്രീ. പി. എസ്സ്. നടരാജപിള്ള അവർകളുടെ ഭേദഗതി അപ്പോയിൻറ് എന്നുമാറി നോമിനേറ് എന്നു് ആക്കണമെന്നാണു്. അതിനു് പ്രധാനമായി പറയുന്ന കാരണം മുഴുവൻ സമയവും ഇതിലേക്കുവേണ്ടി ചിലവാക്കത്തക്കവണ്ണം ഉദ്യോഗസ്ഥന്മാരുടെ ആവശ്യം ഇല്ലെന്നും താൽക്കാലികമായി ആവശ്യമുള്ളപ്പോൾ ഉദ്യോഗസ്ഥന്മാർക്കു് അതിനുള്ള അലവൻസു കൊടു

LIBRARY ARCHIVES Kerala Legislative Assembly

ത്താൽ മതിയെന്നുമാണു". അതു റവന്യൂ ബോർഡിന്റെ നടത്തിപ്പിനു സഹായകമായിരിക്കയില്ലെന്നു പറയാതെ തരമില്ല. ബോർഡിന്റെ ആവിർഭാവത്തോടുകൂടി പല ഡിപ്പാർട്ട്മെൻറൽ ഹെഡ്സും ഇല്ലാതാവും. ലാൻഡു റവന്യൂ, എക്സൈസ്, അഗ്രിക്കൽച്ചറൽ, സെയിൽസ്ടാക്സ് തുടങ്ങിയ ഡിപ്പാർട്ട്മെണ്ടുകളുടെ മേധാവികളും ബോർഡുവന്നതോടുകൂടി ഇല്ലാതെയാവുന്നതും ബോർഡു് അവരുടെ ജോലികളും നിവ്വഹിക്കുന്നതുമാണു". അതിനും പുറമേ സെൻട്രൽ ബോർഡ് ആഫ് റവന്യൂവിൽ അപ്പോയൻറ് എന്ന വാക്കുതന്നെയാണു ഉപയോഗിച്ചിരിക്കുന്നതു". ക്ലോസ് നു–ൽ പറഞ്ഞിരിക്കുന്നതു് ഇങ്ങനെയാണു".

There shall be constituted for the United State a Board of Revenue consisting of one or more members as the Government may from time to time think fit to appoint

നു–ാംക്ലാസ് ഈ സഭ അംഗീകരിച്ചതിനുശേഷം ഇവിടെ നോമിനേറ്റുചെയ്യണം എന്നു വയ്ക്കുന്നതു ശരിയല്ല. ഈ കാരണങ്ങൾകൊണ്ടു് ശ്രീ. നടരാജപിള്ള അവർകളുടെ ഭേദഗതിയെ ഞാൻ എതിർക്കുന്നു.

പിന്നീടു് ശ്രീ. താണുപിള്ള അവർകൾ മേജർ എന്ന വാക്കുമാറ്റണമെന്നു് പറയുകയുണ്ടായി. മേജർ ഡിപ്പാർട്ട്മെണ്ടുകൾ ഏതെല്ലാമാണെന്നു് ഷെഡ്യൂൾ പരിശോധിച്ചാൽ കാണാവുന്നതാണു". ലാൻഡ് റവന്യൂ, എക്സൈസ്, സെയിൽടാക്സ് ഇവയെല്ലാം മേജർ ഡിപ്പാർട്ട്മെണ്ടുകളാണു". അതിനാൽ ആ ഭേദഗതിയും ഞാൻ എതിർക്കുന്നു.

The amendments were put and lost.

The question that clause 4 stands part of the Bill was put and carried.

Clause 4 was added to the Bill.

Sri. P. S. Nataraja Pillai: Sri; I move that in clause 5, the words 'salaries and' may be deleted. I have no additional argument to make other than those I made on the previous amendment. On the basis of that amendment I think this amendment also is necessary and I tabled this amendment to be consistent with my position. I move this amendment.

ശ്രീ. എ. ജെ. ജോൺ: ഇതിനു മുൻ പറഞ്ഞ കാരണങ്ങൾകൊണ്ടു് ഈ ഭേദഗതിയേയും ഞാൻ എതിർക്കുന്നു.

Sri. A. Thanu Pillai: Sir, my amendment is: "Omit clause 5". Clause 5 reads thus: There shall be paid to the members of the Board such salaries and allowances as the Government may from time to time determine." What is the effect of that provision, if it is accepted by this House. The Government may determine any salary they like and that salary will have to be paid to the members of the Board. I am definitely against that. Sir, at a time when Government had full power, such a provision could have found a place in a statute of this kind. Now, can this House say whatever salary Government fix can be paid to the members of the Board? That is the clear effect of this provision. Under the existing arrangements the Government is not the final authority to fix the salaries. The salaries have to be fixed by this House-by the Legislature and any expenditure has to be sanctioned by this House. Government can meet only such expenditure as is sanctioned by this House. Now there are certain provisions even in the Constitution as to how salaries are to be fixed in the case of certain officers and functionaries; for instance, the salary of the Governors, the salary of the High Court Judges, the salary of the President, etc. They are fixed in the Constitution and the Legislature has nothing to do with such salaries. They are fixed. But when the Legislature is given the power to fix the salaries, it is not right to say, whatever Government fix shall be paid. Suppose today the Government fix Rs, 3,000 as the salary of a member of the Board. This Legislation would say that the salary of Rs. 3,000 shall be paid to him. Is it the idea? Therefore, this provision is objectionable and I would say it is unnecessary, Because, any salary would certainly come before the Legislature and the Legislature should agree. Now this should come in the Budget and the Budget should be passed by this House and the necessary sanction will be made in the Finance Bill or rather in the Appropriation Bill. Thus without the sanction of the Budget by the Legislature and an item of expenditure being covered by the Appropriation Bill, certainly the Government cannot incur any expenditure. And whenever such expenditure is sanctioned, there is absolutely no necessity for a provision of this kind in the Bill. So, it is unnecessary in the first place and it is objectionable in the second place. Therefore, I move that this clause 5 be deleted.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri. A Thanu Pillai]

Whenever a Bill is introduced which involves expenditure of public money that fact also should be brought to the notice of the House and the required statement should be appended to it. But that has not been done in this case. Apart from that question, this provision is objectionable and unnecessary and therefore, I move that this provision may be deleted.

ശ്രീ. എ. ജെ. ജോൺ: ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. ശ്രീ. താണുപിള്ള ഇതുപോലെയുള്ള ഒരു ഭേദഗതി അവതരിപ്പിച്ചതിൽ ഞാൻ അതിശയിക്കുന്നു. ഈ ബോർഡിന്റെ ശമ്പളം കൊടുക്കുന്നതിനെപ്പറ്റി തീരുമാനിക്കേണ്ടതു സഭയാണെന്നു പറയുന്നതിനോട് ഞാൻ യോജിക്കുന്നില്ല. സാലറി ഗവണ്മെന്റാണ് നിശ്ചയിക്കുന്നതു്. അതു ഈ സഭയുടെ അംഗീകാരത്തിനായി കൊണ്ടുവരികമാത്രമാണ് ചെയ്യുന്നതു്. അങ്ങിനെ ഈ സഭ നിശ്ചയിക്കുന്ന തുക റവന്യൂബോർഡ് മെമ്പർമാർക്ക് സാലറിയായി കൊടുക്കുന്നതാണ്. അല്ലാതെ മൂവായിരമോ നാലായിരമോ തുച കൊടുക്കുന്നു എന്നു പറയുന്നതു് ശരിയല്ല. ഇപ്പോഴത്തെ അംഗങ്ങളുടെ സാലറിതുക ബഡ്ജറ്റിൽ ചേർത്തിട്ടുണ്ട്. അതു സഭ അനുവദിച്ചിട്ടുള്ളതുമാണ്. ഇനി കൂടുതലായി എതെങ്കിലും അംഗങ്ങൾക്ക് സാലറി കൊടുക്കണമെന്നുണ്ടെങ്കിൽ അതു സഭയുടെ അനുവാദത്തിനായി കൊണ്ടുവരുന്നതാണ്. അതു കൂടാതെ ഒരു കാര്യവുപോലും ചെലവാക്കുവാൻ ഗവണ്മെൻറിനു സാധ്യമല്ല. അതുകൊണ്ട് തുക കൂട്ടുകയോ കുറക്കുകയോ ചെയ്യണമെങ്കിൽ സഭയുടെ അനുവാദം അത്യാവശ്യമാണ്. രണ്ടോ അതിലധികമോ അംഗങ്ങളായിരുന്നാൽ അവക്കു ശമ്പളം കൊടുക്കാൻ ഒരു വ്യവസ്ഥ ഉണ്ടാക്കാതിരിക്കണമെന്നു പറയുന്നതു് സാധുകരിക്കത്തക്കതല്ല. അതിനാൽ ഈ ഭേദഗതിയെ ഞാൻ എതിർക്കുന്നു.

The amendments were put and lost.

The question that clauses 5 and 6 stand part of the Bill was put and carried. Clauses 5 and 6 were added to the Bill.

Sri. K. P. Nilakanta Pillai: Sir, I move the following amendments to clause 7 of the Bill:

"In clause 7 (1) -

(*a*) insert the word 'not', between the words 'shall' and 'be', in line one;

(*b*) insert the words 'and third', between the words 'second' and 'schedule' in line two;

(*c*) substitute the word 'but', for the word 'and' in line two;

(*d*) add the words 'second and', between the words 'the' and 'third' in line four."

When amended, the present clause would read thus: "The Board shall not be the administrative head of the departments mentioned in the second and third schedule but shall exercise general supervision over the departments mentioned in the second and the third schedule." That was the fundamental principle on which we wanted to object to the formation of this Board. This Board is not an independent body and as I drew the attention of the House already, the two members of the Board are the administrative heads of several departments allotted between these two members. This clause says that the Board shall be the administrative head of the departments mentioned in schedule 2. I say, the Board shall not be the administrative head of the departments mentioned in schedule two, but they shall be vested with the powers of supervision over the departments mentioned in schedules two and three.

Sir, I was drawing the attention of the House to the fact that there was no necessity at all for the creation of this Board as it is. Then it was proclaimed by the learned member in charge of the Bill that the Butch Committee that came here sometime back made some sort of recomendation definitely for the creation of such a Board. For the information of the members who have not read the Butch Committee report relating to the creation of this Board, I may be allowed to read one or two stray sentences from the Committee's report. "The Committee would leave it to be considered by Government whether local bodies should be placed under the Board of Revenue or not. The practice varies in Provinces." Another sentence reads thus: "It has not been possible for the Committee to examine all the existing laws in the two States and indicate definite provisions under which powers may be vested in the Board. Unlike in some of the Provinces in India, a number of functions performed by Revenue Officers and Revenue Courts are performed in these States by Civil Courts." Leaving aside all those things, para 105 reads: "We have dealt at some length

LIBRARY ARCHIVES Kerala Legislative Assembly

with the Board of Revenue as we found that there was no clear idea or appreciation of the functions of such a Body and Government would want adequate information regarding its constitution and functions." I was reading these sentences to impress the House with the non-necessity of creating a Revenue Board as it is functioning in the Travancore—Cochin State today. The Butch Committee which went into the matter said that many of the functions which the Revenue Boards are discharging elsewhere are being discharged by Civil Courts here; thereby stating that there is no necessity for a Revenue Board to function here as those functioning elsewhere.

Again, after the discussion, nobody has been able to understand or appreciate the functions of the Revenue Board proposed to be created here. That was what the Committee felt. And after discussion, the members who helped the Butch Committee—all the three members—came to the conclusion that none of us are able to appreciate, or understand the functions which will be performed by the Revenue Board which we may imagine to be created in the State. Ultimately they came to the conclusion that Government would want adequate information regarding its constitution and functions. That is to say that Government have not got adequate information about its constitution and functions. Therefore the Government of Travancore—Cochin State would be well advised to pick up more information justifying the creation or otherwise of the Board. In other words the Committee said perfectly clearly, or it could be understood by inference, that there was no necessity for a Revenue Board in Travancore—Cochin State. As matters stand today, as we consider the question from the nature of the information supplied to us and the information available to us, Government hurried to create this Board. Now what I submit is that without any necessity the Committee did not say anywhere that there should be a Board or should not be a Board; they said: we are not able to appreciate even the functions which the Board will have to attend to and many of the functions which are attended to by Revenue Boards elsewhere are attended to by Civil Courts here; thereby stating that there is no necessity for a Revenue Board here—this Government hurried to create one. Therefore it has come into existence for somebody's sake. Having created the Board, why should all the departments be under the administrative control of this Board. Over departments mentioned in second schedule, the Board is the administrative head; and over departments mentioned in schedule 3 the Board has got powers of supervision. I say the Board should not have administrative functions as head of administrative departments mentioned in schedules 2 and 3; but the Board shall exercise powers of supervision over the departments mentioned in schedules 2 and 3.

Even now there is a lot of confusion about the functions of the Revenue Board. Out of that confusion arose all these difficulties. Now, for going through questions of agrarian problems confronting us, a Land Committee has been constituted. Under normal circumstances that should have been the function of the Revenue Board. This Government have recently raised the land tax per cent of land from 4 cash to 3 pies. It should have been the function of the Board of Revenue to advise the Covernment from time to time about the taxation on land and how to effect changes in the matter of taxing land. That ought to have been the function of the Revenue Board. So, the main function of the Board ought to have been generally to advise the Government about the questions of taxation. Now the main function of the Board is to administer some of the major departments mentioned elsewhere.

Therefore, I am seriously asking the question: Is it for the purpose of administering certain major departments that this Board is created? I want to divest the present Board from all administrative works, but vest them with supervision over all the departments mentioned in schedules 2 and 3 and I do not want to elaborate that argument further, because when I read out some of the portions of the report of the Butch Committee, it was found that the Committee itself felt that they are not able to appreciate what would be the purpose of the creation of the Board. They were not supplied with all the necessary information so that they can come to a decision about the creation of and giving definite functions to the Board. Under the circumstances, it is highly necessary that the Board must be confined to supervisory work. I may again tell this House that I have read the Bill as a whole and have sent other amendments also so that the country may not suffer on account of a particular amendment being carried or defeated. Therefore, in order to make the functions of the Board quite clear, I have tabled other amendments also. My point is that the members of the Board should not be the administrative heads of departments mentioned in schedule 2; but the members of the board shall be the supervising heads of departments mentioned in schedules 2 and 3.

With these words, Sir I place this amendment for the acceptance of the House.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. P. S. Nataraja Pillai: Sir, My amendment is to omit clause 7. This clause reads like this: "The Board shall be the administrative head of the departments mentioned in the second schedule and shall exercise general supervision over the departments mentioned in the third schedule." Schedule 2 contains Land Revenue Department; Excise, Customs and Prohibition; Income-tax; Court of Wards, Sales-Tax; Mines and Minerals; and Famine Relief. These are considered to be the departments which will be directly administered by the members of the Board—or I should say the Board for the wording is "The Board shall be the administrative head". The Board shall be the administrstive head for minerals and mines; the Board shall be the administrative head for Famine Relief; excise and so on. This Board shall exercise general supervision over the departments mentioned in schedule 3. Schedule 3 contains Co-operation; Panchayats; Fisheries; and Registration. So, what the Government envisage is a kind of Board which will have supervisory jurisdiction over Co-operation, Panchayats, Fisheries and Registration; and which will directly administer the major departments like Land Revenue. Excise and Prohibition, Agricultural Income-tax, Sales Tax and also directly do Famine Relief works and exploit the minerals and work the mines.

Sir, by cause 6, which we have adopted now, we have given a definite function to the Board. Clause 6 says: "The Board shall exercise all appellate and revisional powers exercisable by the Government or a Minister under the enactments mentioned in the first schedule or the rules passed thereunder and for this purpose all references in the said enactments or rules to the Government or the Minister shall be construed as references to the Board." So the appellate power has been vested in the Board by the clause already adopted. By that clause the Board shall exercise appellate and revisional powers exercisable by the Government or a Minister under the following enactments: Travancore Acts—The Revenue Summons Act; The Revenue Recovery Act; The Salt Act; The Sea Customs Act; The Land Conservancy Act; The Markets Act; and The Government Land Assignment Act; and Cochin Acts—The Revenue Recovery Act; The Salt Act; The Sea Customs Act; and The Land Conservancy Act. So it will act as a judicial body sitting in judgment over appeals and give final decision. At the same time by clause 7 we are making them administrative heads for these departments as well. They will be the final authority for deciding cases which arise out of the Land Conservancy Act; The Revenue Recovery Act; The Revenue Summons Act; etc. When a case arises out of any one of these Acts, the Board will be the final appellate authority to decide that. But at the same time by clause 7 the Board will be enforcing these Acts as the administrative head of Land Revenue Department. When the Board has issued a final order or decided one matter which arises out of the administration of the Land Revenue Department under survey, settlement, land records or land acquisition that means application of the Land Conservancy Act—under clause 7, that order is to be subjected to the appellate jurisdiction of the Board under clause 6.

I ask, Sir, does it fit in within the ordinary canons of justice? The Board which is the administrative head and disposes of cases is to sit in judgment as appellate authority over its own orders. Perhaps, Sir, I am going to be countered that a division of work is envisaged among the members of the Board themselves. That is another matter. The wording is the Board is the appellate authority on matters arising out of the decisions of the Board. The Board itself will be the administrative head and appellate authority of the Land Revenue Department. How can that be? The Board's decision is final since the administrative jurisdication is also vested in the Board,—Suppose the Board disposes of a matter, that Board itself is vested with the authority of appellate jurisdiction as well. That is not right. That is fundamentally wrong. Therefore on an earlier occasion I pointed out that the administrative control exercised by the Board will result in inefficiency and confusion. It will not aid the proper administration of the Departments. I hold the view that if a department has to be administered efficiently it ought to be administered by officers directly responsible by Government. The administrative control must be with the Government and the responsibility of the administration must be with a competent civil servant. As far as the appellate work is concerned, I fully agree that it should be with a competent independent body like the Board. Therefore only I agreed with that clause clause-6. The power of sitting in judgment, to hear and finally dispose of appeals was vested, under the old enactments in force in Travancore, with the Dewan. He was exercising appellate and revisional jurisdiction over all the enactments mentioned here. Now those conditions have changed. Now Government is being controlled by political chiefs. They are liable to political and party influences. When they are sitting in judgment—when they are to function as a judicial body it will be irksome and will not be in the interest of good government to saddle them with that responsibility. I am in favour of a Board, a Revenue Board; a Board that will exercise

LIBRARY ARCHIVES Kerala Legislative Assembly

all appellate and revisional powers. This function and final appellate authority exercised by the political chiefs should not be allowed to continue and should be vested with a Body—with a Board—who will be free from political pressure. That being so, that is a wholesome provision; that is good; and that is welcome too. Therefore if we constitute a Board, that should do the work of a judicial body exercising appellate jurisdiction. But clause 7 is absolutely unnecessary. Considering the ultimate interests of the country, it will create confusion and trouble. The Board being the direct executive authority the Board to sit in judgment over its action is an unheard of procedure. Therefore, clause 7 which vests the power of administration of the major departments mentioned in the second schedule in the Board should be omitted. The Board should not be an administrative body and it should be confined as a judicial body functioning as appellate authority.

Therefore, I move that clause 7 (1) and (2) be omitted.

Sri. A. Thanu Pillai : Sir, I have also given notice of a similar amendment. Sir, this clause seeks to invest the Board with the administrative headship of a large number of departments. I am clearly of the view that if the Board is made the head—the administrative head—of all these departments, it may not be possible to carry on the administration of these departments efficiently. It is not clear how the Board is going to function so far as their administrative powers are concened. But from what we have been told till now, it appears that one of the members of the Board will be the head of some departments and the other member will be the head of other departments. If that is so, there is no point in saying that the Board shall be the administrative head. Further, Sir, that a Board consisting of more than one individual should be the administrative head of a department, is an idea which carries with it a large amount of inefficiency, delay and wastage of time and energy. That is how I understand the matter.

Again, look at the departments that have been clubbed together—Land Revenue with settlement, survey, land records, and land acquisition: Income Tax including agricultural income-tax; Court of Wards: Sales Tax; Mines and Minerals: Famine Relief. Now I cannot understand how all these departments could be brought under a Board. What is the idea in Land Revenue, Mines and Minerals and Sales Tax, all these being clubbed together and brought under the administrative headship of a Board of this kind? Certainly it will lead to inefficiency and delay. And an officer who is acquainted with the details of a particular department, because he has long served in that department, cannot be expected to attend to the administration of another department to which he had absolutely no concern. That will be the result here. After all what is the necessity to bring all these departments under a Board of this kind—under one or two officers who may be called a Board? I cannot understand why there should be such a Board.

Then again, it further says that they shall exercise general supervision over the departments mentioned in the third schedule. Why is this distinction made? The Board shall have administrative control or administrative headship over certain departments like Land Revenue, Sales Tax, etc.; but they shall have only general supervision over Co-operation, Panchayats, Fisheries and Registration. I do not understand the basis on which this distinction is made. What is meant by general supervision? Is it laying down of policy? What is really the necessity for the constitution of a Board as proposed—a Board which will have administrative control over certain departments? Is it administration in detail? Or, is it maintenance of discipline among the officers? Such distinction to be made between general supervision and administrative headship, is something that is not meaningful to me. And, as has already been mentioned by my friend, one can understand the semi-judicial and judicial functions appertaining to these departments being vested on the Board when necessity arises.

The House rose for lunch at 1 p.m. and re-assembled at 2 p.m. with Mr. Speaker in the chair.

Sri. A. Thanu Pillai : Sir, I was saying that there is no basis for classifying these departments under two heads, one over which the Board will exercise administrative headship and the other over which the Board will have general supervision. What is meant by 'administrative head' and 'general supervision' is not clear. In a statute there should not be words, which do not convey clear and definite meaning. What is meant by 'general supervision', I ask. Whether it is an expression that ought to find a place in a statute, is open to question. Does it mean control over the personnel, policies or functioning of these departments? It conveyes to me absolutely no meaning. There is no justification for importing such words in our statute. On these grounds, I support the motion that Clause 7 may be deleted.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. D. Gnanasigamoni : I move that in Clause 7 sub-clause (2) may be deleted. Sub-clause (2) reads as follows.—

"The Board shall exercise such other powers as Government may by notification in the Gazette confer on it."

This seeks to remove that portion of the clause which relates to the conferment of additional powers on the Board by a mere notification. Reference has already been made to the constitution of the Board and the powers that are vested in it. The Buch Committee report shows that they had no idea about the powers that may be vested in the Board. This second clause conveys no meaning and is absolutely unwarranted. It looks something like a residuary clause. We do not have any idea as to the future powers that may be conferred on the Board. This Board has been created in other provinces with a definite purpose, namely, to lighten the work of Government in respect of appeals under various enactments. That is the very thing referred to in the Buch Committee report as well. The Buch Committee wanted to relieve Ministers holding courts with the parties before them. So all appellate and revisional powers were also sought to be vested in the Board. My submission is that when Clause 7 (1) is definite as regards the departments over which the Board will have administrative control and general supervision, the second sub-clause practically leaves the whole matter vague. It gives power to Government to act by a notification. Supposing they want to add to the Schedule, it is better that they come forward with an amendment. Practically all the enactments in respect of which revisional powers and appellate powers are given are enumerated in the First Schedule. We do not know what other powers the Government could confer on the Board subsequently. I even challenge the Hon'ble Minister to give us an instance where they can confer any additional power on the Board. I would also like to refer to the model act appended to the Buch Committee Report. There a similar provision is seen, but the additional powers conferred are the powers under certain definite enactments. But here Government reserve the right to grant such other powers as they think fit by a mere notification. I ask, whether this Government can confer the powers of the High Court on the Board. To me the removal of this sub-clause will do no hardship to Government. I therefore request that my amendment may be accepted.

ശ്രീ. പൊന്നറ ജി. ശ്രീധർ: സർ, 7 (2)–ാം വകുപ്പു എടുത്തു കളയണമെന്ന ഒരു ഭേദഗതി ഞാനും അയച്ചിരുന്നു. ആ ഭേദഗതി ഞാൻ ഹാജരാക്കുന്നു. ഈ ക്ലാസിന്റെ ആവശ്യമില്ല. അതിനുള്ള കാരണങ്ങൾ ഇവിടെ പല ബഹുമാനപ്പെട്ട മെമ്പറന്മാരും പറഞ്ഞു കഴിഞ്ഞു. അതുകൊണ്ടു ക്ലുപ്തമായി ഒന്നുംതന്നെ പറയേണ്ടതില്ല.

ശ്രീ. എ. ജെ. ജോൺ: ഞാൻ ഈ ഭേദഗതികളെ എല്ലാം എതിർക്കുന്നു. ശ്രീ. കെ. പി. നീലകണ്ഠപ്പിള്ള ബൂച്ചുകമ്മിറ്റി റിപ്പോർട്ടിൽ ഇങ്ങനെ ഒരു റവന്യൂ ബോർഡുണ്ടാകണമെന്നു ശുപാർശചെയ്തിട്ടില്ലെന്നു പറയുകയുണ്ടായി. അതു തെറ്റാണെന്നു മാത്രമെ എനിക്കു പറയുവാനുള്ളു. ബൂച്ചുകമ്മിറ്റി ശുപാർശ ചെയ്തിട്ടുണ്ട്. കമ്മിറ്റി റിപ്പോർട്ടിൽ ഇതിനെപ്പറ്റി പറയുന്ന ഭാഗം ഇതാണ്.

The Committee recommends that a Board of Revenue should be set up in the United State, which should consist of two members and which may be increased to three, should the state of affairs justify it later on" ഈ വസ്തുത ശ്രീ. നീലകണ്ഠപിള്ള അറിയാതെ പോയതിൽ ഞാൻ ഖേദിക്കുന്നു. അദ്ദേഹം പിന്നീടു് പ്രസ്താവിച്ചതു്, ഇവർ ഡിപ്പാർട്ട്മെന്റൽ ഹെഡ്സു ആയിരിക്കരുതെന്നും ഡിപ്പാർട്ടുമെന്റിനുമേലുള്ള സൂപ്പർവിഷൻ ഇവർക്കു ഉണ്ടായിരിക്കരുതെന്നുമാണു്. ഈ തത്വം അംഗീകരിക്കുകയാണെങ്കിൽ ഈ ബില്ലിന്റെ മൗലികമായ തത്വത്തിനു അതു എതിരാണു്. ബോർഡിലെ അംഗങ്ങൾ ഡിപ്പാർട്ട്മെന്റൽ ഹെഡ്സു് ആയിരിക്കണമെന്നും, ജനറൽ സൂപ്പർവിഷൻ ചെയ്യാനുള്ള അധികാരം അവർക്കുണ്ടായിരിക്കണമെന്നുമുള്ള മൗലികമായ തത്വത്തെ അടിസ്ഥാനപ്പെടുത്തിയാണു ഈ ബില്ലു ഹാജരാക്കപ്പെട്ടിട്ടുള്ളതു്. ഈ ബില്ലിന്റെ ഈ അടിസ്ഥാനതത്വത്തെ ഈ സഭ ആദ്യമെ അംഗീകരിച്ചിട്ടുള്ളതുമാണു്. മാത്രമല്ല, ശ്രീ. നീലകണ്ഠപ്പിള്ളയുടെ അഭിപ്രായം സ്വീകരിക്കുകയാണെങ്കിൽ ഇങ്ങനെ ഒരു ബില്ലിന്റെ ആവശ്യംതന്നെ ഉണ്ടാവുകയില്ല.

ശ്രീ. നടരാജപിള്ള ഈ ബോർഡിനു അപ്പലേറ്റും റിവിഷനലും അധികാരങ്ങളും മാത്രമെ കൊടുക്കാവൂ എന്നും, അല്ലാതെ ട്രിബ്യൂണൽ അധികാരം കൊടുക്കരുതെന്നും പറയുകയുണ്ടായി. ബിൽ വായിച്ചുനോക്കിയാൽ ചില കാര്യങ്ങൾക്കു മാത്രം അപ്പലേറ്റു അധികാരവും, മറ്റു ചില കാര്യങ്ങൾക്കു റിവിഷനൽ അധികാരവും കൊടുത്തിട്ടുണ്ടെന്നു കാണാം.

LIBRARY ARCHIVES Kerala Legislative Assembly

ഇൻഡസ്ട്രീയൽസിനെ സംബന്ധിച്ചും, ഇൻകംടാക്സിനെ സംബന്ധിച്ചും അപ്പലേറ്റ ട്രിബ്യൂണൽ പ്രത്യേകം ഏർപ്പെടുത്തിയിട്ടുള്ളതുപോലെ എല്ലാ ഡിപ്പാർട്ട്മെണ്ടുകളേയും സംബന്ധിച്ച് അപ്പലേറ്റ ട്രിബ്യൂണൽ ഏർപ്പെടുത്തുവാൻ സാദ്ധ്യമല്ല. അതുകൊണ്ടാണ് ആ അധികാരം കൂടി ബോർഡിനെ കൊടുത്തിരിക്കുന്നത്".

ശ്രീ. എ. താണുപിള്ള ജനറൽ സൂപ്പർവിഷൻ എന്ന ഷെഡ്യൂളിൽ പറഞ്ഞിരിക്കുന്നതു അവ്യക്തമാണെന്നും എന്താണെന്നു മനസ്സിലാകുന്നില്ലെന്നും പറഞ്ഞു. ഒരു ഡിപ്പാർട്ടുമെണ്ടൽ ഹെഡ്ഡിനെപ്പോലെ, ഒരു സൂപ്പർവിഷൻ അധികാരവും, അതായതു് മേൽനോട്ടം വഹിക്കാനുള്ള അധികാരം വച്ചിരിരിക്കുന്നു എന്നു മാത്രമേയുള്ളു. 9 (2)–ാം വകുപ്പിനെ സംബന്ധിച്ചു ശ്രീ. ജ്ഞാനശിഖാമണി ബോർഡിനു ഹൈക്കോടതിയുടെ അധികാരം കൂടി ഈ വകുപ്പുമൂലം കൊടുക്കുമോ എന്നു ചോദിക്കുകയുണ്ടായി. അങ്ങനെ ഹൈക്കോടതിയുടെ അധികാരമൊന്നും ബോർഡിനു കൊടുക്കുന്നില്ല. റവന്യൂബോർഡ് ഒരു ഹൈക്കോടതിയാക്കാൻ ഗവണ്മെണ്ടുദ്ദേശിക്കുന്നില്ല. ബില്ലിൽ എന്തെല്ലാം കാര്യങ്ങളാണ് ബോർഡു ചെയ്യുവാനായി ഉൾപ്പെടുത്തിയിട്ടുണ്ടോ, ആ കാര്യങ്ങൾക്കുള്ള അധികാരം മാത്രമെ ബോർഡിനു കൊടുത്തിട്ടുള്ളു.

ശ്രീ. എ. താണുപിള്ള: റജിസ്ട്രേഷൻ ഡിപ്പാർട്ട്മെണ്ടിനേയും, കോഓപ്പറേറ്റീവു ഡിപ്പാർട്ട്മെണ്ടിനേയും സംബന്ധിച്ചു ഇപ്പോൾ ബോർഡ് ജനറൽ സൂപ്പർവിഷൻ നടത്തുന്നുണ്ടോ?

ശ്രീ. എ. ജെ. ജാൺ: ഉണ്ട്".

ശ്രീ. എ. താണുപിള്ള: ഇപ്പോൾ എതു രീതിയിലാണ് നടത്തുന്നതു്?

ശ്രീ. എ. ജെ. ജോൺ: ആ ആഫീസുകാര്യം ഇൻസ്പെക്ട് ചെയ്യുക, അവിടെ ഡിസിപ്ലിനറി ആക്ഷൻ എടുക്കാനുണ്ടെങ്കിൽ എടുക്കുക, ഇതാക്കെയാണ്".

ശ്രീ. എ. താണുപിള്ള: ആഫീസുകാര്യം ഇൻസ്പെക്ട് ചെയ്യാൽ എന്തെങ്കിലും ക്രമക്കേടുകാര്യം കാണുന്നപക്ഷം അതിലേക്കു ഉത്തരവാദികളായവരെ ശിക്ഷിക്കാൻ അധികാരമുണ്ടോ?

ശ്രീ. എ. ജെ. ജാൺ: അതിലേക്കു പ്രത്യേകം രൂളുകൾ ഉണ്ട്". അതിനുള്ള അധികാരവുമുണ്ട്". ഈ കാരണങ്ങളാൽ ഞാൻ ഈ ഭേദഗതികളെ എതിർക്കുന്നു.

The amendments were put and lost

The question that Clause 7 stand part of the Bill was put and carried.

Clause 7 was added to the Bill.

Sri. P. S. Nataraja Pillai: Sir, I move that Clause 8 may be omitted. It has been settled by Clause 6 that the Board shall exercise all appellate or revisional powers exercisable by the Government or a Minister under the enactments mentioned in the first schedule or the rules passed thereunder, and by clause 7 it has been decided that the Board shall be the administrative head of the departments mentioned in the second schedule and shall exercise general supervision over the departments mentioned in the third schedule. Under clause 8 it is stated that the Board may with the previous sanction of the Government, make rules for the exercise by one or more members of the Board of the powers and functions of the Board. So after having vested in the Board powers under clause 6 and under clause 7, now these powers are to be exercised by the members of the Board according to the rules made by Government. That I feel is a wrong principle to adopt. When we legislate and create a Board and confer powers on the Board by specific provisions in the Statute we should not nullify it with a rule making power of Government. Of course rules can be framed as they wish and under them one member may exercise administrative power alone and will not be entitled to exercise appellate power and vice versa. It will be giving a wide latitude to the executive authority and will go against the conception of the Board. In practical usage such provisions will be unworkable. That is not a correct principle to be adopted. In the light of clauses 6 and 7 clause 8 is quite unnecessary. Again according to Clause 3 a Board of Revenue can be constituted with one member if the Government wants it. According to clause 8 all decisions made in pursuance to such powers and functions shall be deemed to be the decisions of the Board.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri: P: S. Nataraja Pillai]

Clause 8 is unnecessary, unwanted and will cause unwarranted confusion in the working of the Board. A wide range of power is assumed within the executive control to order things as they want. In this matter the House should think twice before such powers are being reserved to the executive under a Statute. Now we are said to settle the provisions of the Statute. In so doing we have to make specific provisions as to the powers and jurisdiction of the Board and should not make conflicting provisions and make the working of the Board ineffective. According to me powers sought to be taken under clause 8 will go to complicate matters and give unrestricted power to the executive to order things as they want. Under the circumstances I request the House to consider this aspect of the matter and adopt my amendment.

Sri. Ponnara G. Sreedhar: In seconding this amendment I do not wish to move my amendment.

Sri. A. Thanu Pillai: I support the amendment. Already there is a provision which says that the Government may make rules to carry out all or any of the purposes of this Act. That has not been dealt with as that is only coming. In addition to that clause 8 says that the Board may make rules for the exercise by one or more members of the Board of the powers and functions of the Board, no doubt, with the previous sanction of Government. But when Government themselves take power under the provisions to make rules for the purpose of this Act, where is the further necessity to delegate that power again to the Board itself I fail to see: Even the assumption by Government is objectionable: There should be a limit to delegation of powers. We have gone a step further to invest the Board itself to frame rules: It is not purely a matter affecting the internal working of the Board: It is not anything in the nature of bylaws and things of the kind which have to be attended to: But here is a matter investing one member with powers and that cannot be said to be in relation to the working of the Board internally: The question is whether the Board consisting of two or three members or a single member should exercise those powers and the Board itself is given power to decide that: That is going too far: I do not see any necessity for this either: I am definitely against such a provision in the Bill: In the light of the fact that the Government may make rules to carry out all or any of the provisions for the purposes of this Act which is questionable, I cannot agree to this clause: Therefore I second the amendment:

ശ്രീ. എ. ജെ. ജോൺ : ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. ഈ ക്ലാസിൽ പറഞ്ഞിരിക്കുന്നതു് ഭരണത്തിൽ ഉള്ള കാര്യങ്ങളെ സംബന്ധിച്ചു് അവർ ഓരോരുത്തരും ചെയ്യേണ്ട ജോലികൾ എന്തെല്ലാമാണെന്നുള്ളതിനു് ഗവൺമെണ്ടിന്റെ അനുവാദത്തോടുകൂടി രൂപകം ഉണ്ടാക്കുന്നതിനു അവർക്കു അധികാരം ഉണ്ടായിരിക്കുമെന്നാണു്. അല്ലെങ്കിൽ അവർക്കു പ്രത്യേകമായി യാതൊന്നും ചെയ്യാൻ സാധിക്കാതെവരുന്നതാണു്.

Only with the previous sanction of Government.

എന്നാണു് പറഞ്ഞിരിക്കുന്നതു്. ഗവൺമെണ്ടിന്റെ അനുവാദത്തോടുകൂടി എന്നു പറഞ്ഞിരിക്കുന്നതുകൊണ്ടു് നേരത്തെ ഗവൺമെണ്ടുണ്ടാക്കുന്ന രൂപകംക്കും ഇതിനും പരസ്പരവൈരുദ്ധ്യം ഉണ്ടായിരിക്കുന്നതല്ല.

ശ്രീ. എ. താണുപിള്ള : അവർ ചോദിക്കുന്ന വിധത്തിൽതന്നെ ഗവൺമെണ്ടു് ഇതനുവദിക്കുമെന്നാണോ മനസ്സിലാക്കേണ്ടതു്?

ശ്രീ. എ. ജെ. ജോൺ : അതേ. ഇതു അവർ തങ്ങൾ തങ്ങൾ ചെയ്യുന്ന ജോലിയെ സംബന്ധിച്ചായതുകൊണ്ടു് അതനുവദിക്കുന്നതിൽ തെറ്റില്ല. പക്ഷെ ഗവൺമെണ്ടനുവാദത്തോടുകൂടി ചെയ്യണമെന്നേയുള്ളൂ. ഫസ്റ്റ മെമ്പറിനു് Excise, Customs. Prohibition, etc., ഇതൊക്കെയാണു് ജോലി. സെക്കൻഡു് മെമ്പറിന്റെ Co-opeartion, Fisheries, etc., ഇതൊക്കെയാണു്. ഈ രൂപകം ഉണ്ടാക്കുന്നതു് ഗവൺമെണ്ടനുവാദത്തോടുകൂടി വേണമെന്നുമാത്രമേ ഉള്ളൂ. ഈ കാരണത്താൽ ഞാൻ ഭേദഗതിയെ എതിർക്കുന്നു.

The amendment was put and lost.

The question that Clause 8 stands part of the Bill was put and carried.

Clause 8 was added to the Bill.

Sri. D. Gnanasigamoni: Sir, I move 'Delete Clause 9';

LIBRARY ARCHIVES Kerala Legislative Assembly

The clause as worded reads:

Government may at any time call for and examine the record of any case pending before, or disposed of by the Board and may pass such order in reference thereto as Government think fit;

Provided that no order shall be passed under this section without notice to the party who may be affected by the order.

Sir, we have been told that this Board has been created in pursuance of the recommendation of the Buch Committee. The Hon'ble Minister was good enough to read to us only one sentence of the recommendation of the committee. But I propose to place before the House the other portions of it and show why this board was created and that is the reason for my having tabled an amendment of the kind. In para 100, the Buch Committee says: The policy of having a Board of Revenue has been endorsed and recommended by the Ministry of States to all Unions of States. It is obvious that the present system under which a Minister himself hears appeals is undesirable. It keeps the Minister busy in routine matters which are governed by properly framed rules and regulations instead of leaving him free to attend to important matters. As a general rule Ministers should be concerned with the framing of policies and not with day to day administration, That is the reason which led the Buch Committee to recommend the constitution of a revenue board for Travancore. That has also been the terms of reference to the committee itself. There is another significance why the Buch Committee made such a recommendation because that committee in their report later on say that it had not the time practically to go into all the laws of the country regarding revenue matters and indicate how powers may be vested in the board. No doubt the committee itself has owned as to how it came to make that recommendation. The simple reason was that there was the terms of reference for the constitution of a board. It has also endorsed the statement of this ministry as well. Within the short time at their disposal that committee had to examine all the laws and then make the necessary recommendation. If as a matter of fact they had examined all the revenue laws obtaining in the country they would have faced with real difficulty in the matter, and learnt for themselves that the position here is different from the rest of India. In North India for instance, in the matter of collection of land revenue there is not the sanction of law behind it. There is another portion in the Buch Committee recommendation, It is to the effect that no appeal or revision shall lie against any decision of the Board. That is the reason why boards have been constituted in other Provinces and a finality is given to their decisions. My hon'ble friend Mr. Udayabhanu has pointed out that in his dissenting note. The Board should maintain its independence. It shall always remain as on independent body. The Bihar Act is an instance in point. It is this model which the Buch Committee appended to the report. Under clause 8 of that Act, no appeal or revision lies from the decision of the Board to any authority. My submission is that the powers conferred by Section 6 is now sought to be taken away by Section 9 by which Government still retains the powers of revision. The work of the Government is therefore not lightened as was expected. Not only that. The Government instead of directing the policy is now concerned with the day to day working of the department. For these reasons my submission is that this clause is unnecesssry and its retention will go counter to the very recommendation of the Buch Committee under which they say that such a board has been constituted.

Sri. P. S. Nataraja Pillai: Sir, in seconding that amendment I wish to draw the attention of the House to the wording of the clause. "Government may at any time call for and examine the record of any case pending before, or disposed of by the Board and may pass such order.....But clause 6 has settled the powers and functions of the Board and it says that all appellate or revisional powers shall vest in the Board. But under this clause a power is vested with Government in appellate matters. In effect it is to say that without giving the Board time and convenience to dispose of the case before them after consideration, a kind of revisional and appellate power is to be exercised by Government to call for the pending case before the board or transfer it from their file to the file of Government and to dispose it in the manner they think fit. And all this after settling clause 6 of the Bill. That is, Government is assuming an appellate authority over the authority which they have created. According to clause 6 Board is an appellate authority, having all powers exercisable by the Government or a Minister under the enactments mentioned in the first schedule or the rules passed there under and for this purpose all references in the said enactments or rules to the Government or the Minister shall be construed as references to the Board. So much so the Board alone is the sole authority to exercise those powers, Legally also it is the correct position. Under clause 9 it

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri. P. S. Nataraja Pillai]

is said that Government may at any time call for and examine the record of any case, etc. I ask, how it is that position legally correct. It passes my understanding. All authority to exercise appellate jurisdictions is vested in the Board and how can Government exercise that after having divested themselves of that authority by a specific provision of this enactment. According to certain enactments there are appellate to Government but the Board alone is the sole authority so far as those references relating to appeals. There is no inherent jurisdiction for the Government to deal with matters arising out of enactments in force. If a person wants revision of orders say under salt Act, it must be done by the board and they alone are entitled to pass that order. But under clause 9 it is stated that Government may at any time call for and examine the record, etc. I ask, who will pass the necessary order in appeal in the first instance. If it were Government I ask, under which provision of law. Clause 6 gives that power only to the Board and not to Government. A lay man like me cannot understand the legality of this provision. I request the official benches and legal advisers not to confuse matters and to place obstacles in the way of ordinary men from proceeding with cases pending before the Revenue Board. That is an aspect for the house to consider. Government has the right under this clause to assume appellate powers under certain contingencies either at their initative or at the request of another person. Ordinarily they should be concerned in the administration of every department under them and see how far the application of various provisions have been complied with in reference to the enactments in force. That kind of responsibility is divested from Government and shouldered on to the Board according to clause 6 of the Bill. Now a provision is made to the effect that whenever Government want they can meddle in the affairs of the Board either at their instance or at the instance of some person even in the ordinary course. That I object to. Such a power should not be exercised by the executive at ordinary times. I ask in the present political set up of things, is it advisable to have that power with Government? It is always necessary that treasury benches should be above suspicion and free from details of administrative work. If a popular Government is to succeed it should only lay down policies and see to the implimentation of them by the permanent executive. I seriously ask should a reserve power like this, a kind of patronage power to be exercised in the interest of individuals, vest with Government? I doubt very much. Hence I wholeheartedly support the amendment.

Sri. A. Thanu Pillai : Sir, I also wish to say something on this point. I myself have tabled an amendment. My amendment is, "In clause 9, for 'Government', substitute 'a single Bench of the High Court, I fully agree with all that has been stated by Mr. Nataraja Pillai. Clause 6 says that the Revenue Board shall exercise all appellate or revisional powers exercisable by Government or the Minister in enactments mentioned in the First Schedule. The enactments are the Revenue Summons Act, the Revenue Recovery Act, the Salt Act, the Land Conservancy Act, etc. Now these enactments invest Government with certain powers. Clause 6 says all these powers hereafter devolve on the Board. According to me the proper course should have been to amend the Acts concerned. If power is to be vested with the Board in the real sense. the acceptable course would be to amend the various Acts mentioned in the First Schedule. For instance somebody looks into the Land Conservancy Act for a provision of law to guide him. I ask what is there to indicate that, that law has been superseded by the Board of Revenue Act. Nothing. So that is a faulty legislation. As I have been pointing out on earlier occasions enactment should be brought forward to suit practical expediency. In the same manner vaious enactments will have to be applied in the ordinary process of law by individuals and that should be a definite procedure. Power of appeal and original jurisdiction are provided for in the Statutes. Government is invested with certain powers. After having settled clause 6 of the Bill clause 9 takes away what has been settled. Under the circumstances what does that denote? Is it that the Board should have been invested with powers for finally disposing of matters or that Government should again have a power over the decisions of the Board? If it is the latter I would suggest that that power should be vested in the High Court of the land. I am agreeable to that. In regard to some of the matters as the Revenue Recovery Act, the Land Conservancy Act, etc., finality is given to orders passed by a sufficient responsible body and if Government thought they would constitute the Board in such way that finality is given to decisions, there will be no complaint. If it is thought there is to be a further higher power of revision, then I should suggest that power should be given to the High Court. There is point in Government again exercising that power. I will refer to a recent case in question. I read in the newspapers that Government took action under the Salt Act against a certain

LIBRARY ARCHIVES Kerala Legislative Assembly

individual. [It appears he filed a suit in the High Court over that matter. The High Court have ruled that the Government was ultra vires in their action against the individual and prohibited them from proceeding any further. Thus the right of the individual has been protected for the time. Anyway that is a recent case in point. That shows that if we give revisional powers over the actions and decisions of the Board it is better that power is given to the High Court of the land. Then there will be finality. Not only that. Times are changing. Many of these laws were framed at a time when Government was really autocratic, and that Government thought they could deal with matters in the manner they thought was right, Now times are changing and we should look at things from a different angle of vision.

Let the authority be the High Court, whether Government be one of the parties or not. Take a case under the Revenue Recovery Act where a party complaints that the Revenue Recovery Act is not being properly put into force. If the Board's decision is not final, why not it be decided upon by the highest court in the land, which knows law and procedure and which is absolutely impartial in administering justice between party and party. Therefore, I am of the opinion that the powers should be vested in the High Court. It may be a single judge of the High Court so that the High Court may not be put to the necessity of wasting the time of two Judges. Government means a Minister, and we know, Sir, and we hear complaints that Ministers are liable to take sides of parties. That is why a person belonging to a political party, which stands to gain or lose by going against certain persons, should not be allowed to hear such appeals. But that is not the case with the judiciary. A High Court Judge can be expected to do better justice than a Minister. The High Court knows law and it is habituated to deal with matters impartially. But a Minister is not like that; he seldom knows law and he is not accustomed to do justice impartially. Hence my amendment. If the other amendment for deletion is accepted, I won't mind. If powers are to be vested in anybody, it should be with the High Court. That is why I have put in a single Judge of the High Court. I move the amendment.

ശ്രീ. എ. ജെ. ജോൺ : സർ, ഞാൻ ഈ ഭേഗതികളെ എതുക്കുന്നു. ക്ലാസ് നു-ൽ പറഞ്തിരിക്കുന്നതു ഇവക്കു എല്ലാ അപ്പലറ റിവിഷണൽ പവ്വേഴ്സും എക്സർസയിസ് ചെയ്യുന്നതിനധികാരമുണ്ടെന്നാണു്. അവ ഏതെല്ലാമെന്നും എങ്ങിനെയെന്നും ഷെഡ്യൂൾ ഒന്നിൽ പറഞ്തിട്ടുണ്ടു്. റവന്യുസംബന്ധമായ കാര്യങ്ങൾ കാര്യക്ഷമമായി പ്രവത്തിക്കുന്നതിനുവേണ്ടിയാണു് ഈവക പവ്വേഴ്സു എല്ലാം ബോർഡിനു കൊടുത്തിരിക്കുന്നതു്.

സെക്ഷൻ നു-ൽ പറഞ്തിരിക്കുന്നതു ഏതെങ്കിലും അത്യാവശ്യമായ സന്ദർഭത്തിൽ ബോർഡിന്റെ പ്രവത്തനം ശരിയല്ലെന്നോ, ബോർഡുചെയ്തതു ശരിയല്ലെന്നോ, അല്ലെങ്കിൽ അനീതിപരമായി ബോർഡു പ്രവത്തിക്കുന്നു എന്നോ ബോദ്ധ്യമായാൽ ഗവമ്മെണ്ടിനു് അതേപ്പററി അവസാനമായി പ്രവേശിക്കുന്നതിനുള്ള അധികാരം വച്ചിട്ടുണ്ടെന്നു മാത്രമേ ഇതു കൊണ്ടത്ഥമാക്കേണ്ടതുള്ളു. അല്ലാതെ ഈ റിവിഷണൽ പവ്വേഴ്സ് ഗവമ്മെണ്ടു പ്രയോഗിക്കാൻ പോകുന്നില്ല. ക്ലാസു് നു അനുസരിച്ചു ബോർഡിനു് ആവശ്യമായ എല്ലാ അധികാരങ്ങളും കൊടുത്തിട്ടുണ്ടു്. എന്നാൽ ചില സന്ദർഭങ്ങളിൽ ബോർഡുചെയ്തതു വളരെ അക്രമവും അനീതിയും ആണെന്നും അതുമൂലം കക്ഷികൾക്കു വലുതായ സങ്കടമുണ്ടെന്നും ബോദ്ധ്യമായാൽ അന്ത്യമായിട്ടുള്ള നടപടികൾ ഗവമ്മെണ്ടിൽനിന്നും എടുക്കുന്നതിലേക്കുള്ള ഒരു അധികാരമായിട്ടുമാത്രം ഇങ്ങനെ വച്ചിരിക്കുകയാണു്. ഈ അധികാരം എപ്പോഴും പ്രയോഗിക്കാൻ പോകുന്നില്ല. ഈ അധികാരം ഒരു ഹൈക്കോടതി ജഡ്ജിക്കു കൊടുക്കണമെന്നു പറയുന്നതു ശരിക്കലും ശരിയല്ല. അങ്ങിനെ ഒരു രാജ്യത്തും ഈ അവകാശം ഹൈക്കോടതിക്കു കൊടുത്തതായി അറിഞ്തിട്ടില്ല. അതിലേക്കു ചിലപ്പോൾ ഒന്നോ രണ്ടോ മൂന്നോ ജഡ്ജിമാരേയും വയ്ക്കേണ്ടതായിവന്നേക്കാം. അതുകൊണ്ടു് ഈ ഭേഗതി ഒരു വിധത്തിലും സ്വീകരിക്കാൻ നിവത്തിയില്ല.

ശ്രീ. എ. താണുപിള്ള : അപ്പോൾ ഇതിലേക്കു് ഒന്നോ രണ്ടോ മൂന്നോ മിനിസ്റ്ററന്മാരെ നിയമിക്കാൻ പോകുകയാണോ?

ശ്രീ. എ. ജെ. ജോൺ : എന്നല്ല ഞാൻ പറഞ്തുകൊണ്ടത്ഥമാക്കുന്നതു്. ഇതിലേക്കു് ഒരു ഹൈക്കോടതി ജഡ്ജിയെ അധികാരപ്പെടുത്തണമെന്നു പറഞ്തുകൊണ്ടാണു് ഒന്നോ രണ്ടോ ജഡ്ജിമാരെ ഇതിലേക്കു നിയമിക്കേണ്ടിവരുമെന്നു പറഞ്തതു്. ഏതുവിധത്തിലായാലും ഈ മാതിരി ഒരു പ്രൊവിഷൻ ഒരു സ്റ്റേററിലും ഉള്ളതായി അറിവില്ല.

Sri. D. Gnanasigamony: Is there any corresponding provision in any similar Act?

LIBRARY ARCHIVES Kerala Legislative Assembly

ശ്രീ. എ. ജെ. ജോൺ : അതു ഇതുവരെ കണ്ടിട്ടില്ല. അതിനാൽ ഞാൻ ഇതിനെ എതിർക്കുന്നു.

Sri. A. Nesamony: Is there any safeguard against the whims and fancies of the Revenue Board?

ശ്രീ. എ. ജെ. ജോൺ : ബോർഡിന്റെ വിംസ് ആൻഡ് ഫാൻസീസ് അനുസരിച്ചല്ല അവർ പ്രവർത്തനം നടത്തുന്നതു്. അതു സാധിക്കയുമില്ല. ക്ലാസ് സ്പെഷൽ അവരുടെ അധികാരങ്ങളും ജോലികളും എന്തെല്ലാമെന്നു വിവരിച്ചിട്ടുണ്ടു്. അതിൽ ഇന്നയിന്നാ സെക്ഷൻസ് അനുസരിച്ചു അവർക്കു അപ്പീലാറ്റ് പവ്വേഴ്സ് ഉണ്ടെന്നു പറഞ്ഞിട്ടുണ്ടു്. എന്നാൽ എതെങ്കിലും സംഭവങ്ങൾ ഉണ്ടാവുകയാണെങ്കിൽ അപ്പോൾ ഗവർമ്മെണ്ടിനു പ്രവേശിക്കുന്നതിനു് ഒരു അവകാശം ഉണ്ടായിരിക്കുന്നതിനുവേണ്ടിയാണു് ക്ലാസ് ൻ വച്ചിരിക്കുന്നതു്.

Sri. A. Nesamony: Is it the opinion of the Government that they could take action suo motu or at the instance of any party?

Sri. A. J. John: That is why the Section says: "Government may at any time call for and examine the record of any case pending before. or disposed of by the Board and may pass such order in reference thereto as Government think fit."

Sri. A. Nesamony: Does not the Government think that the Clause: as it stands, will lead to injustice, especially, in a party matter?

(No reply).

The amendments were put and lost

The question that Clauses 9 to 13 stand part of the Bill was put and carried.

Clauses 9 to 13 were added to the Bill.

Sri. D. Gnanasigamony: Sir, I move that Clause 14 be deleted. The Clause reads as follows:

"The Government may, by notification in the Gazette, amend, alter or add to the Schedules."

Sir, this is a power which under law Government cannot exercise. This is in terms clearly delegated legislation. And this Assembly cannot delegate powers to any other body. Even if the powers are delegated, they cannot be exercised by that body. This principle is accepted by all. Recently this has been pronounced by the Supreme Court, which has been reported in September part of the A. I. R. 1949.

Sri. A. J. John: May I know on which subject it arose?

Sri. D. Gnanasigamony: The Legislature by a Proviso delegated powers for the extension of an Act beyond the period of its expiry. The Supreme Court said that that is delegated legislation and the delegated body has no such power. In Clause 14, it is said that the Government has the power of adding to the Schedules. This Schedule forms part of this Act. I ask how can this Government alter or amend this Schedule. For altering or amending this Schedule the Government will have to come to this House. This is a power which the Government cannot exercise. I do not know whether the Government are prepared to accept that proposition.

ശ്രീ. എ. ജെ. ജോൺ : ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. അതിൽ പറഞ്ഞിരിക്കുന്നതു് ഗവർമ്മെണ്ടിനു യുക്തമെന്നു തോന്നുമ്പോൾ ഗസറ്റിൽ പ്രസ്ദ്ധപ്പെടുത്തിയ ശേഷം ഷെഡ്യൂൾ ഭേദപ്പെടുത്തുന്നതിനോ എതെങ്കിലും ഡിപ്പാർട്ടുമെണ്ടുകൾ കൂട്ടിച്ചേർക്കുന്നതിനോ കുറയ്ക്കുന്നതിനോ അധികാരമുണ്ടെന്നാണു്. ഇതും സുപ്രീം കോർട്ട് ഡിസിഷനുമായി എന്തു ബന്ധമാണെന്നു് എനിക്കു മനസ്സിലാകുന്നില്ല. എതെങ്കിലും ഡിപ്പാർട്ടുമെണ്ടുകൾ ചേർക്കുന്നതിനെപ്പറ്റിയാണു് പറഞ്ഞിരിക്കുന്നതു്.

Sri. A. Nesamony: Does not this Clause amount to an amendment of the Act?

Sri. A. J. John: No.

Sri. A. Neasmony: I wish the Member consults legal opinion before giving that answer. Is it not an elementary principle of legislation that an Act can be amended only by the legislative body?

Sri. A. J. John: The Government may amend, alter or add എന്നാണു് പറഞ്ഞിരിക്കുന്നതു്.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. A. Nesamony: Does not that amount to legislation ?

ശ്രീ. എ. ജെ. ജാൺ: ഇതിൽ ഡിപ്പാർട്ടുമെൻറുകൾ എതെങ്കിലും ചേർക്കുന്നതിനോ മാറ്റുന്നതിനോ ഉള്ള അധികാരം ഗവൺമെണ്ടിനു കൊടുത്തിരിക്കുന്നു എന്നു മാത്രമേ പറഞ്ഞിട്ടുള്ളൂ. റൂൾ മേക്കിംഗ് പവ്വർ കൊടുക്കുമ്പോൾ അതുതന്നെയാണു് ആൾട്ടർ ചെയ്യുന്നതിനുമുള്ളതു്.

Sri. A. Thanu Pillai: The clause says, "amend, alter or add". Will not that include omission also ?

Sri. A. J. John: Clause 14 says that the Government may by notification amend, alter or add to the Schedules.

The amendment was put and lost.

The question that clauses 14 and 15 stand part of the Bill was put and carried.

Clauses 14 and 15 were added to the Bill.

Sri. D. Gnanasigamony: Sir, I move the following amendment. Add as sub-clause (2) to clause 16, the following:

"All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modification as the Legislative Assembly may make during the session in which they are so laid."

Sir, I have already placed before this House the relevant reasons. So I do not want to add to what I have already stated on several occasions. If the Government want, they may accept it.

Sri. A. Nesamony: Sir, I want to say a few words in support of the amendment. We are now trying to work up a democratic institution. We are now trying to imitate the Mother of Parliaments, the British Parliament. There rule making powers are delegated to a Rule-making Committee. If the working of any rule is found inconvenient, it is taken note of at question hour, and if the answers that are given are not satisfactory, the member in charge takes an opportunity of discussing that as an urgent public matter. I, therefore, consider that we will do well to have the rules laid before the House for ratification so that the House may have a right or control over delegated legislation as well. This was a wholesome procedure adopted in the mother of Parliaments and practised for more than a century and a half there. It is worthwhile adopting that.

ശ്രീ. എ. ജെ. ജാൺ: മി. ജ്ഞാനശിഖാമണി ഇതിനുമുമ്പുതന്നെ ഇതെസംബന്ധിച്ചു പറഞ്ഞതാണു്. അതിനു ഞാൻ മറുപടിയും പറഞ്ഞുകഴിഞ്ഞു. അതേകാരണങ്ങൾകൊണ്ടുതന്നെ ഞാൻ ഇതിനേയും എതിർക്കുന്നു. മി. നേശമണി പറഞ്ഞതു് ഇതെപ്പറ്റി അസംബ്ലിയിൽ വാദപ്രതിവാദം ചെയ്യുന്നതിനു അവസരം നൽകണമെന്നാണു്. ഇതുസംബന്ധിച്ചുള്ള റൂൾസു് എല്ലാംതന്നെ ഗസറ്റിൽ പരസ്യം ചെയ്യുന്നതായിരിക്കും. റൂൾസു് പാസാക്കിയതിനുശേഷം മേശപ്പുറത്തു വയ്ക്കുന്നതിനും വിരോധമില്ല. അതിനുശേഷം എതെങ്കിലും ഭേദഗതി ചെയ്യണമെന്നുള്ളപക്ഷം അതുസംബന്ധിച്ചു് മെമ്പറന്മാർക്കു് ആവശ്യമുള്ള നടപടി നടത്താവുന്നതാണു്.

Sri. A. Nesamony: Under the General Clauses Act, rules that are framed must be published before they become law.

ശ്രീ. എ. ജെ. ജാൺ: ഇവിടെ പറഞ്ഞിരിക്കുന്നതു് All those rules made under this Act shall be published in the Gazette. എന്നാണു്. അതായതു് ഗവൺമെണ്ടു നിശ്ചയിച്ചതിനു ശേഷം ഗസറ്റിൽ പരസ്യം ചെയ്യുമെന്നാണു്. ഇതുസംബന്ധിച്ചു എതെങ്കിലും വ്യത്യാസം വരുത്തണമെന്നുള്ളപക്ഷം മെമ്പറന്മാർക്കു അതിനു് അവസരവും അവകാശവും ഉണ്ടായിരിക്കുന്നതാണു്. അതായതു് ഇന്ന ഭേദഗതി ചെയ്യണമെന്നു ഇവിടെ ആവശ്യപ്പെടാൻ അവകാശമുണ്ടായിരിക്കുന്നതാണു്. അതു് അനുവദിക്കുന്നതുമായിരിക്കും.

Sri. A. Nesamony : Could that be only put as a resolution on a non-official day?

ശ്രീ. എ. ജെ. ജാൺ: നോൺ ഒഫീഷ്യൽ മെമ്പറാണെങ്കിൽ നോൺ ഒഫീഷ്യൽ ഡേയിലായിരിക്കും. നേരെമറിച്ചു ഗവൺമെണ്ടു് മെമ്പറാണെങ്കിൽ ഒഫീഷ്യൽ ഡേയിലായിരിക്കും.

The amendment was put and lost.

The question that Clause 16 stand part of the Bill was put and carried.

Clause 16 was added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly